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February 14, 1997

**BY FAX TO 1-312-886-4071 AND  
CERTIFIED MAIL, RETURN RECEIPT REQUESTED**

Mr. Kurt Lindland  
United States Environmental Protection Agency  
Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

Dear Kurt:

**Re: Albion-Sheridan Township Landfill Site  
Albion, Michigan**

I am writing in response to your certified mail proposal dated February 5 which arrived at the Jackson post office on Tuesday, February 11. Your letter includes a request that, by February 14, Decker confirm it will take certain steps.

Decker would like to meet with you to discuss this matter. Decker has a number of questions regarding the actions listed. Considering the amount of time given to respond, the nature of your proposal and the history of this matter, Decker is not able to fully respond to your request, other than to reaffirm that Decker will continue to comply with the UAO. The short response time is compounded by Decker's inability to obtain any documentation regarding the status of the work from either the other respondents or the EPA.

In spite of that, the following response is submitted as Decker's best effort on short notice.

**1. Decker's formal response**

Decker remains willing to perform, along with the other respondents, its obligations under the UAO. On December 8, 1995, Decker filed its consent to the Unilateral Administrative Order. By various letters, Decker has restated that intent on several other occasions as well. Decker has not changed its position.

## **2. Current status of UAO compliance**

It is Decker's understanding that all steps currently required under the UAO are being performed, and are up to date. Decker is not aware of any violations of the UAO by any respondent. To the best of its knowledge and belief, Decker is in full compliance with the UAO.

## **3. Next steps**

To move forward in this matter, Decker would like to meet with the EPA to discuss the requests listed in your letter and the most effective method of coordinating the work required under the UAO among the respondents. We would also like to obtain a briefing on the progress that has been made to date by the other respondents. As you know, the other respondents have refused to include Decker in their efforts and have returned Decker's checks sent to contribute towards the costs of compliance with the UAO.

In addition, Decker has been unable to obtain any information about the compliance status and plans except for a few progress reports filed by the Project Coordinator. I believe the last Progress Report sent to Decker was for June, 1996, although the April report is still missing. Please provide those documents so that Decker can evaluate the plans and the progress of the work required by the UAO. The meeting proposed by Decker would be more productive if this information were provided prior to the meeting.

## **4. Comments on specifics in your letter**

Your letter of February 5 requests that Decker perform certain actions. Three requests are listed:

1. **"secure site access by purchasing the property located" at 29951 E. Erie and 18475 28 Mile Road, both of Albion, Michigan.**

You state that this must be done by April 15, 1997. As you know, the UAO does not necessarily require purchasing the property. Paragraph 62 states that

"in the event \*\*\* property subject to or affected by this response action, is owned in whole or in part by parties other than those bound by this Order, Respondents will obtain, or use their best efforts to obtain, site access agreements \*\*\*."

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At this time, despite repeated requests to be kept current on compliance efforts, Decker has not been provided information as to which sites will require access agreements, nor the nature of the access required. For instance, Decker does not understand why access to the 18475 28 Mile Road site is necessary. That appears to be located about 7 miles north of the City of Albion, about 9 miles by road from the landfill.

In addition, access agreements or some other arrangement short of purchasing the property may well be sufficient. Until complete information is provided as to what access is needed, and what will be done with the access, it will likely be impossible to acquire the land. The extent to which Decker, rather than the Project Coordinator, should be directly involved in coordinating this request for access is one of the issues Decker would like to discuss during the proposed meeting.

It would also be helpful to have in advance of the meeting information showing which sites are needed and why, and the efforts to obtain access to these sites, including details on all contacts with the owners.

The EPA may need to invoke its authority to obtain access. Please confirm that the EPA is willing to use such authority, if necessary. That may help convince the owners of any required sites to provide access agreements voluntarily.

If such authority is not available, or will not be exercised by the EPA, the plan should probably include other alternatives to permit its completion.

With the necessary information in hand and the confirmation by the EPA and other respondents that this method is the best route to go, Decker is willing to approach the persons who control access and attempt to secure the access agreements.

2. "Pursuant to Section XV of the UAO, notify US EPA of a Project Coordinator/Construction Contractor to implement the Operation and Maintenance ("O&M") portion of the Remedial Action."

Your second request notes that the O&M Plan is currently scheduled for implementation in December 1997/January 1998. You suggest that Decker may wish to retain its Project Coordinator to

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review and comment on the draft O&M plan, which is due by April 30, 1997.

You are correct that Decker would like to review and comment on the draft plans. All of them, not just the O&M plan. The Remedial Design Workplan and other plans are also critical in determining the nature of the O&M Plan. Decker has requested all along to be involved in making those plans. Decker continues its request to be included in all aspects of the project. Please provide that material to Decker immediately, so it can be reviewed.

With respect to naming a Project Coordinator, this request seems inconsistent with the UAO. Section XV states

"All aspects of the Work \*\*\* shall be under the direction and supervision of a Project Coordinator \*\*\*. The Project Coordinator shall be the RPM's primary point of contact with the Respondents \*\*\*."

This requirement limits the respondents to one project coordinator. Please advise Decker if Cooper Industries or Corning Incorporated have stated that the Project Coordinator will not perform the work required under the UAO. Decker would like to discuss this issue, including how all the respondents are going to coordinate, plan and implement the O&M efforts.

**3. "Implement the Operation and Maintenance ("O&M") Plan, which is currently being drafted by other respondents."**

As noted above, all of the respondents have agreed to comply with the UAO, which includes implementing an O&M Plan. Decker will work with the EPA and all respondents to prepare an appropriate plan, and to accomplish that end.

**5. Conclusion**

Decker desires to be involved in selecting the Remedial Design and Workplan, as well as developing the O&M Plan. The resolution of the internal allocation dispute among the respondents would be greatly aided if you would use your influence to encourage Cooper Industries and Corning Incorporated to permit Decker to participate in the Remedial Design and other planning process. Decker remains willing to actively participate in this process and to fund an appropriate share of the work. As you know, Decker's efforts have thus far been rejected by Cooper and Corning.

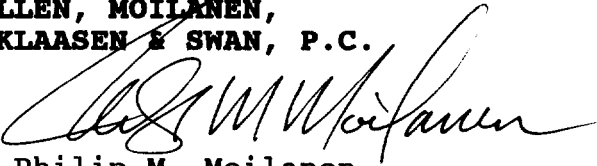
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Please contact me so we can arrange a meeting to discuss these issues and those raised in your letter.

Yours very truly,

**BULLEN, MOILANEN,  
KLAASEN & SWAN, P.C.**

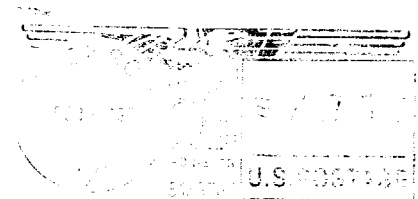
By

A handwritten signature in cursive script, appearing to read "Philip M. Moilanen", written in dark ink.

Philip M. Moilanen

cc: Jon Peterson  
Decker Manufacturing Corp.  
Michael Caldwell

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RETURN RECEIPT REQUESTED

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